

**FILED**

AUG 25 2005

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

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ESTATE OF DANIEL ANDERSON,  
a/k/a Danny Anderson,  
by and through Lori Nichols Arola,  
personal representative,

Plaintiff,

-vs-

PELICAN LAKE CONSULTING,  
a North Dakota Corporation; and  
MICHAEL T. RUSS,  
d/b/a M.T.R. Construction,

Defendants.

CIV. 03-4257

OPINION AND ORDER

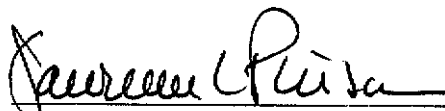
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The Magistrate Judge issued a Report and Recommendation recommending that Pelican Lake's Motion for Summary Judgment be granted. No party filed objections to the Report and Recommendation within the time allowed. After conducting an independent review of the record, the Court agrees with the Magistrate Judge. Accordingly,

IT IS ORDERED that the Report and Recommendation is ADOPTED, and Pelican Lake's Motion for Summary Judgment (Doc. 33) is GRANTED. Judgment shall be entered in favor of Pelican Lake against Michael T. Russ d/b/a M.T.R. Construction in the amount of \$100,000.00, plus prejudgment interest from November 10, 2004, plus costs to be taxed by the clerk of court.

Dated this 25<sup>th</sup> day of August, 2005.

BY THE COURT:



Lawrence L. Piersol  
Chief Judge

ATTEST:  
JOSEPH HAAS, CLERK

By: Sharon Laro, Deputy

(SEAL)